



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

OCT 3 2005

VIA FACSIMILE & FIRST CLASS MAIL

Brian Svoboda, Esq.
Perkins Coie LLP
607 Fourteenth Street, NW
Washington, DC 20005-2011

RE: MUR 5611
Missouri Democratic State Committee
and Rod Anderson, in his official
capacity as treasurer

Dear Mr. Svoboda:

On September 19, 2005, the Federal Election Commission accepted the signed conciliation agreement submitted on your client's behalf in settlement of violations of 2 U.S.C. § 434(b) and 441b(a), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. *See* 2 U.S.C. § 437g(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. In addition, paragraph XI calls for the production of the contract between your client and a compliance consultant within 30 days, a financial management plan within 60 days, and omnibus amendments to be filed within 90 days of the effective date of the agreement. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Beth Mizuno".

Beth Mizuno
Attorney

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Missouri Democratic State Committee
and Rod Anderson, in his official
capacity as treasurer

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MUR 5611

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OFFICE OF THE
FEDERAL ELECTION
COMMISSION

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission") pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that the Missouri Democratic State Committee (the "Committee") and Rod Anderson, in his official capacity as treasurer (collectively "Respondents"), violated 2 U.S.C. §§ 434(b) and 441b(a).¹

NOW THEREFORE, the Commission and the Respondents, having duly entered into conciliation pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), do hereby agree as follows:

- I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding.
- II. The Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- III. The Respondents enter voluntarily into this agreement with the Commission.
- IV. The pertinent facts and violations of law in this matter are as follows:

¹ All of the facts recounted in this agreement occurred prior to the effective date of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. 107-155, 116 Stat. 81 (2002). Accordingly, unless specifically noted to the contrary, all citations to the Federal Election Campaign Act of 1971, as amended ("the Act"), herein are to the Act as it read prior to the effective date of BCRA and all citations to the Commission's regulations herein are to the 2002 edition of Title 11, Code of Federal Regulations, which was published prior to the Commission's promulgation of any regulations under BCRA. All statements of the law in this agreement that are written in the present tense shall be construed to be in either the present or the past tense, as necessary, depending on whether the statement would be modified by the impact of BCRA or the regulations thereunder.

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1. The Missouri Democratic State Committee is a political committee within the meaning of 2 U.S.C. § 431(4).

2. Rod Anderson is the treasurer of the Missouri Democratic State Committee. He began serving in that role after the events that gave rise to this matter.

Failure to Report Receipt and Transfer of Excessive and Prohibited Contributions

3. The Federal Election Campaign Act of 1971, as amended, (“Act”) provides that no person and no multicandidate political committee shall make contributions to a political committee in any calendar year, which, in the aggregate, exceed \$5,000. 2 U.S.C. §§ 441a(a)(1)(C) and (2)(C).

4. The Act prohibits corporations and labor organizations from making any contribution or expenditure, directly or indirectly, in connection with any Federal election. 2 U.S.C. § 441b(a). Candidates and political committees are prohibited from knowingly accepting or receiving contributions prohibited by 2 U.S.C. § 441b(a). 2 U.S.C. § 441b(a).

5. The treasurer of a political committee is responsible for disclosing the amount of cash on hand at the beginning of the reporting period, for the reporting period and the calendar year, and the total amount of all receipts and all disbursements. 2 U.S.C. §§ 434(b)(1), (2), and (4).

6. During calendar year 2000, the Respondents accepted contributions from individuals and multicandidate political committees that exceeded the contribution limit at 2 U.S.C. § 441a(1)(C) by \$176,125 and transferred the excessive portion of those contributions to the Committee’s non-federal account. The Respondents did not report to the Commission the receipt of the excessive portion of these contributions or the transfer of the excessive portion of the contributions to the non-federal account.

7. During calendar year 2000, the Respondents accepted contributions from limited liability corporations, professional corporations and a labor organization totaling \$164,500. Contributions totaling \$159,500 were prohibited by 2 U.S.C. § 441b(a); one contribution, in the amount of \$5,000, was permissible. The Respondents transferred \$90,000 of these contributions to the Committee's non-federal account prior to the audit. The Respondents transferred \$69,500 of the corporate contributions three years after receipt and in response to recommendations arising out of the Commission's audit. The Respondents did not report to the Commission the receipt of the contributions or the transfer of the contributions to the non-federal account.

Misstatement of Financial Activity

8. The Respondents misstated the Committee's receipts, disbursements and cash-on-hand balances in disclosure reports filed with the Commission for calendar year 2000. The misstatements were due in large part to the Committee's failure to report its receipt of excessive and prohibited contributions and its failure to report its transfer of the excessive and prohibited contributions to its non-federal account. While the Respondents did not file amended reports with the Commission to correct the misstatements with respect to its receipt and transfer of excessive and prohibited contributions, they acknowledged other discrepancies in reported receipts and disbursements and amended their reports to correct those discrepancies. Respondents contend that the amended reports that they filed were intended to reflect their belief that they had disclosed joint federal/nonfederal contributions appropriately under the law as understood during the 2000 election cycle.

Failure to Report Debt

9. A political committee must disclose the amount and nature of outstanding debts and obligations owed by it until those debts are extinguished. 2 U.S.C. § 434(b)(8) and 11 C.F.R. § 104.11(a).

10. In disclosure reports it filed with the Commission for calendar year 2000, the Respondents failed to disclose outstanding debts to thirteen vendors totaling in excess of \$620,000.

V. 1. The Respondents failed to report the receipt and transfer to the Committee's non-federal account of \$176,125 in excessive contributions, \$159,500 in prohibited contributions and a \$5,000 permissible contribution, all in violation of 2 U.S.C. § 434(b).

2. The Respondents accepted contributions prohibited by 2 U.S.C. § 441b(a) totaling \$69,500 in violation of 2 U.S.C. § 441b(a).

3. The Respondents misreported the Committee's receipts, disbursements and cash-on-hand balances in reports filed with the Commission for the period January 1 through December 31, 2000 in violation of 2 U.S.C. § 434(b).

4. The Respondents failed to report over \$620,000 of outstanding debt in violation of 2 U.S.C. § 434(b).

VI. The Respondents will pay a civil penalty to the Commission in the amount of \$110,000 pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Respondents will cease and desist from further violation of 2 U.S.C. §§ 434(b) and 441b(a).

VIII. The Respondents will file amended reports with the Commission to reflect the receipt and transfer of excessive and prohibited contributions in the manner described in the Final

Audit Report on the Missouri Democratic State Committee, approved by the Commission on October 31, 2003.

IX. The Respondents will maintain documentation for all future transfers of excessive or prohibited contributions from the Committee's federal account to its non-federal account sufficient to establish the identity of the contributor, the date and amount of the contribution, the portion of the contribution being transferred, the date and reason for the transfer, that the contributor designated the amount in question for the non-federal account, and that the Committee has notified the contributor of the opportunity to request a refund in lieu of transfer.

X. The Respondents will develop and adhere to procedures for the handling and disposition of checks where the payor is not an individual. Such procedures will be designed to prevent the deposit of checks in the Committee's federal account unless and until it is established that the payor is eligible to make a contribution to the Committee.

XI. The Respondents agree to retain an outside consultant to review the Committee's compliance procedures. The consultant shall be experienced in complying with the Act's requirements, and shall be skilled in preparing Commission reports and in political committee accounting procedures. The consultant shall not be a Committee officer or a member of the Committee's permanent staff.

The Committee's agreement with the consultant shall require the consultant to be available for consultations with the Committee's permanent staff, and shall require the consultant to conduct an on-site training session with the Committee's permanent staff and fundraising volunteers at least once during the 2006 election cycle, and at least once during the 2008 election cycle. The Committee will produce to the Commission a copy of its agreement with the consultant no later than 30 days after the date on which the Commission accepts this Agreement.

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The scope of the consultant's review shall include, but need not be limited to, the Committee's practices and procedures regarding:

1. contributions received, including loans, to ascertain whether any contribution is excessive or from a prohibited source;
2. the disclosure of contributions and of disbursements, debts and obligations;
3. disbursements made from all federal and non-federal accounts, including any Levin accounts, to determine whether or not the disbursements must be allocated between federal and non-federal accounts or between federal funds and Levin funds, and if so, to determine whether the appropriate allocation ratio has been used;
4. the disclosure of expenses allocated between federal and non-federal accounts or between federal funds and Levin funds;
5. the consistency between reported figures and bank records; and
6. the completeness of records.

Upon completion of the review, the consultant shall draft, and the Committee through its executive committee or state central committee shall adopt, a financial management plan establishing procedures in connection with the matters set forth above. Respondents shall submit a copy of the plan, together with evidence of the Committee's adoption of that plan, to the Commission no later than 60 days after the date on which the Commission accepts this agreement.

The consultant shall also review and reconcile the Committee's reports for the 2004 election cycle, and shall ensure that the Committee's records for the 2004 election cycle are in a form that substantially complies with the requirements of 11 C.F.R. Parts 102 and 104, and specifically 11 C.F.R. § 104.14(b). Upon the consultant's completion of this review and reconciliation, and in any event no later than 90 days after the date on which the Commission

accepts this Agreement, the Committee shall file with the Commission omnibus amendments to its 2004 election cycle reports. The Committee will maintain documentation supporting the 2004 omnibus amendments, including vouchers, worksheets, correspondence, advertisements, receipts, bills and accounts, which shall provide in sufficient detail the necessary information and data from which the amendments may be verified, explained, clarified and checked for accuracy and completeness. The Respondents will provide this documentation to the Commission upon request.

For calendar years 2005 and 2006, the Committee agrees to have an independent accounting or compliance firm conduct a compliance audit of the Committee each calendar year. The scope of the audit shall include the points #1-6 described supra p. 6. No later than April 1, 2006 for calendar year 2005, and no later than April 1, 2007 for calendar year 2006, the Committee shall produce to the Commission a certification signed by an authorized representative of the independent firm and, in the event that person is not a certified public accountant, also by a certified public accountant, stating that: (1) the audit has been performed in accordance with this Paragraph XI, and (2) the Committee has taken steps such as, but not limited to, amending reports or refunding contributions to bring the Committee into compliance with the Act.

XII. The Respondents will require the Committee treasurer, bookkeeper and the person who prepares its disclosure reports to attend a Commission-sponsored training program for party committees within a year of the effective date of this agreement. Respondents shall submit evidence of registration and attendance at such event to the Commission.

XIII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof

has been violated, it may initiate a civil action for relief in the U.S. District Court for the District of Columbia.

XIV. This agreement shall become effective as of the date that all parties thereto have executed same and the Commission has approved the entire agreement.

XV. Respondents shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement, except for the requirements of paragraphs XI and XII, and to so notify the Commission.

XVI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence H. Norton
General Counsel

BY: Rhonda J. Vosdingh
Rhonda J. Vosdingh
Associate General Counsel
for Enforcement

9/23/05
Date

FOR THE RESPONDENTS:

BY: Corey Dillon
Corey Dillon
Executive Director

8/31/05
Date

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